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May 21, 2012

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H. *J. Fielding*
Director and Health Officer

SUBJECT: **UPDATE ON IMPLEMENTATION OF THE FOOD VEHICLE
INSPECTION GRADING ORDINANCE**

Background

On October 12, 2010, your Board adopted amendments to Los Angeles County Code, Title 8 that established standards for the letter grading of food vehicles. This effort was modeled after the restaurant grading program approved by the Board and initiated by the Department of Public Health ("Department") in 1998. Food vehicles have always been subject to regulation as a "food facility" under State and County law; the subject ordinance simply extended the letter grading of restaurants and markets to include food vehicles. The posting of letter grades provides the public with a familiar indication of an operator's food safety practices, and a method to distinguish permitted from unpermitted food vehicles.

There are an estimated 6,000 food vehicles operating within the County. This total is comprised of approximately 3,200 "high risk" food vehicles (e.g., full service food trucks and carts) and 2,800 "low risk" food vehicles (e.g., pre-packaged ice cream vendors, produce trucks, and coffee/pretzels/food carts). Upon adoption, the Grading Ordinance ("Ordinance") was effective only in the unincorporated areas of the County. Similar to implementation of restaurant grading, we have been working with the contract cities to effect local adoption. The cities of Los Angeles, Santa Monica, and Arcadia have already adopted the Ordinance. As a result, of the estimated 6,000 food vehicles operating in the County, approximately 43% (or 2,600) are currently subject to the Ordinance. During the next 2 years, as additional cities adopt the Ordinance, we anticipate the percentage of food vehicles in the County subject to letter grading will increase to approximately 75%.

Vehicle letter grading is being implemented in two phases. Phase 1 applies to high-risk food vehicles and was initiated in November, 2010. As directed by the Board, once Phase 1 is completed, and prior to implementing Phase 2, the Department is to report back on actual program workload and costs, any necessary adjustments in permit fees, regulatory issues identified in consultation with the industry, and proposed program improvements. We anticipate providing the *Phase 1 Report* to your Board in November 2012. In the interim, we are providing the following update of our findings to date.

Adoption of Ordinance by Contract Cities

Effective implementation of food vehicle grading is dependent on adoption of the Ordinance in those contract cities where the large majority of food vehicles operate. This will require adoption of the Ordinance adoption by approximately 40 of the 85 contract cities. As of April 5, 2011, the cities of Los Angeles, Santa Monica, and Arcadia have adopted the Ordinance. Eight additional cities have expressed interest in adoption: Alhambra, Beverly Hills, Downey, La Canada-Flintridge, Monrovia, Paramount, Signal Hill, and Torrance. As mentioned previously, we expect that within the next two years, at least 75% of the food vehicles operating within the County will become subject to the Ordinance.

Disclosure of Route Information

Conducting unannounced inspections is based on information provided by operators identifying the location where they are operating. To date, 20% of food vehicle operators have made such disclosures and much of the information has been incomplete or inaccurate.

In order to address this problem, the Department has reminded food vehicle operators of their route reporting responsibilities through mass mailings and notification on official inspection reports. On a parallel track, we are exploring other methods to facilitate unannounced inspections while easing the burden of route reporting by operators.

For example, vehicle operators could carry cell phones so they could be immediately contacted by the Department for the purpose of inspection. Industry representatives have suggested the option of automated route reporting. We believe our discussions with the industry will result in alternatives to the route reporting currently required in the Ordinance.

Food Service within the Motion Picture and Television Production Industry

The Department is working with caterers / food truck operators servicing the motion picture and television production industry to develop specific food safety standards appropriate for that sector. In consultation with industry representatives, we have identified several areas appropriate for reforms including: Outdoor food service requirements at film-site locations; appropriate standards for support trucks on which foods are not prepared; use of portable toilets during film production; and use of a single comprehensive permit covering all aspects of food service associated with a film production event. The Department is working with County Counsel to evaluate these potential changes and determine which should be included as amendments to the Ordinance. These recommendations will be included our November 2012 report to your Board.

Food Vehicles Operating at Community Events

Food vehicles congregating in large numbers at a community event is a growing trend. Although responsibility for compliance with food vehicle requirements rests with vehicle operators, there are additional requirements at community events that must be addressed by an event sponsor or coordinator. These include: restrooms for food handlers and the general public; refuse collection and removal; safe vehicle ingress and egress; and general venue sanitation and housekeeping. In mass gatherings, these provisions are important to ensure public health and safety. We are meeting regularly with the industry County Counsel, and contract city representatives to address these needs, including a review of State and local codes dealing with community events. Our report to your Board in November 2012 will include recommendations to effectively resolve these issues.

Restroom Availability Requirements

Under the California Retail Food Code (Cal-Code), food vehicles that operate in one place for greater than one hour are required to have access to restroom facilities within 200 feet, "*or as otherwise approved by the enforcement agency.*" With implementation of letter grading, members of the industry have requested the Department consider options to having toilet and hand wash facilities within the 200 foot distance. We are continuing our discussions with the industry and County Counsel to determine whether an alternative requirement is appropriate, including a possible extension of the 200 ft distance under certain circumstances.

We are also conferring with County Counsel on the Department's long-standing requirement that food vehicle operators demonstrate access to restroom facilities by producing a signed agreement between the vehicle operator and owner of the restroom facilities. Our report to your Board in November 2012 will indicate how this issue is resolved.

Leased Food Vehicle Enforcement

County Code specifies that a "*public health permit*" be issued to the "*owner*" of a food vehicle. However, it is common for vehicle owners to lease their vehicles to individual operators who are not required under the Code to secure a public health permit. This arrangement often presents difficulties in enforcement as both parties can deny responsibility for violations. Additionally, inspection information posted on the Department's website is associated with the "*business name of the permit holder,*" making it difficult for consumers to find inspection results for a leased food vehicle that operates under its own DBA. The Department is working with County Counsel to effect changes in the Code that would resolve these issues. We will report further in our November 2012 report to your Board.

Use of Commissaries by Food Vehicle Operators

Cal-Code requires that food vehicles operate in conjunction with a "*commissary*" that provides for cleaning, servicing and storage of the vehicle. Annual certification inspections of food vehicles are conducted at the commissary identified by the operator to assure it is in fact being used, and complies with applicable standards. We have found that some vehicle operators fail to operate out of a lawful commissary. The Department is conferring with County Counsel to strengthen the County Code to address this issue by clarifying the responsibilities of vehicle owners/operators and commissary operators.

Graded Inspection Outcomes

During the first year of implementation, the distribution of letter grades for the "high risk" vehicles inspected was: "A" (72.7%), "B" (18.4%), "C" (6.6%), and "*Below a Score of 70*" (2.2%). Eighteen percent (18%) of the vehicles inspected were closed due to significant non-compliance. In comparison, there was a 2% closure rate for restaurants inspected during the first year of the restaurant grading program.

The U.S. Centers for Disease Control and Prevention (CDCP) has identified a list of "*critical risk factors*" that contribute to food borne illness (FBI), and cite temperature violations as the most prevalent. During Phase 1, "critical risk factors" were identified in 50% of all graded inspections, and temperature violations were found in one of every four. Also during Phase 1, a total of 49 individuals reported illnesses they believed were related to foods purchased from food vehicles. Fifteen of the 49 individuals tested positive for salmonella. These cases were associated with two food vehicle related salmonella

outbreaks. On inspection, the associated vehicles were found to have no access to restrooms and were cited for other major health code violations, resulting in closure of the food vehicles. Over the last three years, the Department has observed an annual increase of 25% in reported foodborne illness complaints involving food vehicles. Additionally, two of the 16 criminal cases for distribution and sale of illegally processed and imported cheese filed in 2011, were associated with food vehicles. In both cases, food samples tested positive for the presence of pathogenic bacteria.

Next Steps

As referenced above, our extensive interaction with the industry during Phase 1 has allowed the Department to identify issues and consider potential changes very early in the implementation of the Ordinance. Our discussions with the industry and County Counsel are continuing, and we anticipate providing your Board with our *Phase 1 Report* in November 2012. That report will include an analysis of actual program workload and costs, regulatory issues and proposed program improvements, and any necessary adjustment in permit fees. This will allow for appropriate changes in the program before implementation of Phase 2, which is projected for July 2013.

If you have any questions or need additional information, please let me know.

JEF:ab

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors